

## **SETTLEMENT AGREEMENT AND WAIVER AND RELEASE OF ALL CLAIMS**

This settlement agreement and waiver and release of all claims ("Agreement") is entered into between the North Carolina Department of Health and Human Services, Division of Services for the Blind ("DSB") and [REDACTED] collectively referred to as "Parties".

### **RECITALS**

WHEREAS, the North Carolina Department of Health and Human Services' Division of Services for the Blind ("DSB") is the State agency responsible for administering the Business Enterprises Program under the Randolph Sheppard Act;

WHEREAS, [REDACTED] is a licensed operator in the Business Enterprises Program, and operated Kendall Snack Bar in Raleigh, North Carolina;

WHEREAS, DSB received complaints regarding the operation of Kendall Snack Bar, the investigation of which lead to the replacement of [REDACTED] at Kendall Snack Bar by DSB;

WHEREAS, [REDACTED] filed a formal appeal challenging [REDACTED] replacement at Kendall Snack Bar in July 2015;

WHEREAS, [REDACTED]'s appeal was reviewed by the Operator Relations Subcommittee of the Business Enterprises Program (BEP) in August 2015;

WHEREAS, following the determination of the Operator Relations Subcommittee, the parties seek to resolve any and all differences related to [REDACTED] replacement at Kendall Snack Bar and [REDACTED] July 2015 formal appeal;

THEREFORE, in consideration of the covenants and promises herein contained and for valuable consideration given, receipt of which is hereby acknowledged, the following agreement is hereby entered into by the Parties:

1. The execution of this Agreement shall not be construed as an admission of guilt or other wrongdoing by either party. Nor shall the Agreement or compliance with the Agreement be construed as an admission of wrongdoing or violation of law, policy, statute, covenant, contract (implied or express), or regulation by the North Carolina Department of Health (NCDHHS) or DSB, including its supervisors, employers, employees, agents, or representatives.
2. DSB will pay [REDACTED] \$562.70 per month for a total amount of \$3,376.22 and over a maximum of six (6) months, starting in October 2015 and ending in March 2016. The Parties agree that this amount was arrived at by deducting the total cost of inventory and other costs owed to BEP by [REDACTED] (\$3,946.18) from the average

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monthly income earned by [REDACTED] at Kendall Snack Bar from August 2014 through June 2015 (\$1,220.40) (Ex. A).

3. In the event [REDACTED] is awarded a new BEP location, DSB shall cease making payments. In making this representation, DSB is by no means committing to or warranting that it will award a new BEP location to [REDACTED] outside the ordinary process and requirements for awarding BEP locations.
4. In consideration of the promises and covenants herein conveyed, [REDACTED] waives, releases and agrees not to file or pursue any further or pending claims in any forum (state or federal) against NCDHHS or DSB, and which in any way relate to the July 2015 complaint filed with the Operator Relations Subcommittee, [REDACTED] replacement at Kendall Snack Bar, or the process through which [REDACTED] was replaced at Kendall Snack Bar.
5. The Parties agree that they will each assume liability, if any, for attorney's fees or costs associated with this matter.
6. [REDACTED] warrants that in agreeing to this Agreement, [REDACTED] has had the opportunity to confer with counsel. [REDACTED] further agrees that [REDACTED] has not relied in any way on representations, statements or actions of NCDHHS or DSB regarding the subject matter of this Agreement other than the written terms of this Agreement.
7. This Agreement shall be construed in accordance with North Carolina law and [REDACTED] expressly consents to the jurisdiction of North Carolina courts over the issues addressed in this Agreement.
8. The Parties agree that this Agreement is a full and complete settlement of all claims related to [REDACTED] July 2015 complaint filed with the Operator Relations Subcommittee, [REDACTED] replacement at Kendall Snack Bar, or the process through which [REDACTED] was replaced at Kendall Snack Bar. The Parties further agree that this Agreement constitutes the Parties' entire agreement regarding the claims raised herein, and shall be binding on and inure to the benefit of each party's assigns, administrators, executors, heirs, and personal representatives.
9. In the event that one or any portions of this Agreement may be held to be unenforceable, this Agreement shall be reformed only to the extent necessary to make such provision legally enforceable.

**RECEIVED** In WITNESS whereof, [REDACTED] and the North Carolina Department of Health and Human Services, Division of Services for the Blind execute the Agreement below:  
OCT 30 2015

10/26/15

Date

North Carolina  
GRANVILLE County

On this the 26 day of Oct 2015, [REDACTED] to me known to be the person herein described personally appeared before me, and executed the foregoing document; and [REDACTED] acknowledged that [REDACTED] voluntarily executed this Agreement.

Chetna Handoo

Notary Public  
My commission expires on: 08/11/2018

10/26/15

Date

**CHETNA HANDOO**

Notary Public  
Granville Co., North Carolina  
My Commission Expires Aug. 11, 2018

Eddie Weaver  
Eddie Weaver  
Director, N.C. Division of Services for the Blind

North Carolina  
Wake County

On this the 27<sup>th</sup> day of October, Eddie Weaver to me known to be the person herein described personally appeared before me, and executed the foregoing document; and he acknowledged that he voluntarily executed this Agreement.

Deborah L. Jones

Notary Public  
My commission expires on: 4-15-2017

10-27-2015

Date

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